REMARKS

Claims 1, 8, 16 and 24 have been amended and claim 7 has been cancelled. The Applicant notes that the Examiner has not issued a rejection for claims 6 or 7, thereby indicating each contain allowable subject matter. Note that the subject matter of claim 7 has been incorporated into claims 1, 8, 16, and 24. Therefore, these claims and their dependents are believed to be in condition for allowance. Finally, no new matter has been added.

Rejection under 35 U.S.C. § 102(e)

Claims 1-3, 8-13, 16-21, and 24-27 are rejected under 35 U.S.C. § 102(e) as being anticipated by United States Patent No. 6,694,492 to Shakkarwar (hereinafter "Shakkarwar").

It is well settled that "anticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, arranged as in the claim." *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984); *citing Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983) (emphasis added).

Claim 1 requires where said micro-controller includes updateable or replaceable firmware, said firmware comprising algorithms for determining how to respond to temperature, power, voltage, or clock parameters. The Applicant respectfully submits that Shakkarwar does not teach this limitation. Instead, Shakkarwar merely discloses "a diagnostics program to verify responses from a CPU." (*see* Shakkarwar col. 6, lines 48-49). However, this diagnostics program is not a firmware, and even if could be construed as such, the program is not updateable nor replaceable. Further, Shakkarwar is wholly silent as to firmware comprising algorithms for determining how to respond to temperature, power, voltage, or clock parameters. As such, Shakkarwar does not teach every limitation of Applicant's claimed invention. Therefore, the Applicant respectfully requests the Examiner withdraw the 35 U.S.C. § 102(e) rejection of record.

Claim 1 is also allowable as it contains the subject matter of original claim 7. As mentioned above, the Examiner indicates that claims 6 and 7 are allowable.

Claim 8 requires where said micro-controller includes updateable or replaceable firmware, said firmware comprising algorithms for determining how to respond to temperature, power, voltage, or clock parameters. The Applicant respectfully submits that Shakkarwar does not teach this limitation. Instead, Shakkarwar merely discloses "a diagnostics program to verify responses from a CPU." (*see* Shakkarwar col. 6, lines 48-49). However, this diagnostics program is not a firmware, and even if could be construed as such, the program is not updateable nor replaceable. Further, Shakkarwar is wholly silent as to firmware comprising algorithms for determining how to respond to temperature, power, voltage, or clock parameters. As such, Shakkarwar does not teach every limitation of Applicant's claimed invention. Therefore, the Applicant respectfully requests the Examiner withdraw the 35 U.S.C. § 102(e) rejection of record.

Claim 8 is also allowable as it contains the subject matter of original claim 7. As mentioned above, the Examiner indicates that claims 6 and 7 are allowable.

Claim 16 requires where said micro-controller includes updateable or replaceable firmware, said firmware comprising algorithms for determining how to respond to temperature, power, voltage, or clock parameters. The Applicant respectfully submits that Shakkarwar does not teach this limitation. Instead, Shakkarwar merely discloses "a diagnostics program to verify responses from a CPU." (*see* Shakkarwar col. 6, lines 48-49). However, this diagnostics program is not a firmware, and even if could be construed as such, the program is not updateable nor replaceable. Further, Shakkarwar is wholly silent as to firmware comprising algorithms for determining how to respond to temperature, power, voltage, or clock parameters. As such, Shakkarwar does not teach every limitation of Applicant's claimed invention. Therefore, the Applicant respectfully requests the Examiner withdraw the 35 U.S.C. § 102(e) rejection of record.

Claim 16 is also allowable as it contains the subject matter of original claim 7. As mentioned above, the Examiner indicates that claims 6 and 7 are allowable.

Claim 24 requires where said micro-controller includes updateable or replaceable firmware, said firmware comprising algorithms for determining how to respond to

temperature, power, voltage, or clock parameters. The Applicant respectfully submits that Shakkarwar does not teach this limitation. Instead, Shakkarwar merely discloses "a diagnostics program to verify responses from a CPU." (*see* Shakkarwar col. 6, lines 48-49). However, this diagnostics program is not a firmware, and even if could be construed as such, the program is not updateable nor replaceable. Further, Shakkarwar is wholly silent as to firmware comprising algorithms for determining how to respond to temperature, power, voltage, or clock parameters. As such, Shakkarwar does not teach every limitation of Applicant's claimed invention. Therefore, the Applicant respectfully requests the Examiner withdraw the 35 U.S.C. § 102(e) rejection of record.

Claim 1 is also allowable as it contains the subject matter of original claim 7. As mentioned above, the Examiner indicates that claims 6 and 7 are allowable.

Claims 2-3, 9-13, 17-21, and 25-27 depend from their respective base claims, and thus inherit all the limitations of the claims from which they depend. Additionally, each of claims 2-3, 9-13, 17-21, and 25-27 further set forth limitations not taught or suggested by Shakkarwar. The Applicant respectfully assert that claims 2-3, 9-13, 17-21, and 25-27 are allowable at least for the reasons set forth above with respect to claims 1, 8, 16, and 24. Therefore, the Applicant respectfully requests the Examiner withdraw the 35 U.S.C. § 102(e) rejection of record.

Rejection under 35 U.S.C. § 103(a)

Claims 4, 14, 22, and 28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shakkarwar in view of U.S. Patent Application Publication 2003/0225999 to Rogenmoser (hereinafter "Rogenmoser").

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one or ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references must teach or suggest all the claim limitations. *See* M.P.E.P. § 2143; *In re Vaeck*, 947 F.2d 488, 20 USPQ 2d 1438 (Fed. Cir. 1991). Without conceding the

first or second criteria, the Applicant respectfully submits that the Current Action does not establish a prima facie case because the proposed combination fails to teach or suggest all of the limitations of the rejected claims.

The Applicant respectfully points out that the combination of Shakkarwar and Rogenmoser fails to teach or suggest all of the claim limitations of Applicant's invention. The Final Action states "it would have been obvious to combine Shakkarwar and Rogenmoser because applying Shakkarwar's monitoring of temperature at each unit and transferring a processing workload...would maintain a processor such as Rogenmoser's to within design limits for overheating which would meet restrictions for export." (*see* Final Action, pg. 3). However, as discussed above, claims 4, 14, 22, and 28 depend from their respective base claims, and thus require where said micro-controller includes updateable or replaceable firmware, said firmware comprising algorithms for determining how to respond to temperature, power, voltage, or clock parameters. As discussed above, Shakkarwar fails to teach or suggest this limitation. Further, Rogenmoser is not relied upon to teach or suggest this missing limitation. Thus, the Applicant respectfully asserts that claims 4, 14, 22, and 28 are patentable over the 35 U.S.C. § 103(a) rejection of record.

Claims 5, 15, and 23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shakkarwar in view of Korean Patent Publication 9405466 B1 to Kim (hereinafter "Kim").

The Applicant respectfully submits that the Final Action does not establish a prima facie case of obviousness because the combination of Shakkarwar and Kim fails to teach or suggest all of the limitations of the rejected claims. The Final Action states "it would have been obvious to combine Shakkarwar and Kim because monitoring current levels with ammeters and VCO's would provide Shakkarwar's system with a way of determining current...to determine over-temperature due to current levels." (*see* Final Action, pg. 4). However, as discussed above, claims 5, 15, and 23 depend from their respective base claims, and thus require where said micro-controller includes updateable or replaceable firmware, said firmware comprising algorithms for determining how to respond to temperature, power, voltage, or clock parameters. As discussed above, Shakkarwar fails to teach or suggest this limitation. Further, Kim is not relied upon to teach or suggest this missing limitation. Even

if the Examiner's remarks are correct, which the Applicant does not concede they are, the combination of Shakkarwar and Kim fails to teach or suggest every claim limitation of Applicant's invention. Thus, the Applicant respectfully asserts that claims 5, 15, and 23 are patentable over the 35 U.S.C. § 103(a) rejection of record.

Conclusion

Claim 6 is not subject to any rejection of record, therefore the Applicant respectfully requests an indication of allowability from the Examiner in a subsequent Action. In view of the above the remarks above, the Applicant believes the pending application is in condition for allowance. The Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 08-2025, under Order No. 200208727-1 from which the undersigned is authorized to draw.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as Express Mail, Airbill No. EV482724097US in an envelope addressed to: MS AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date of Deposit: December 16, 2005

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Respectfully submitted,

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